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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,287	02/03/2006	Masanori Itoh	OKUDP0159US	8386
51921 7590 12/08/2009 MARK D. SARALINO (PAN) RENNER, OTTO, BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE 19TH FLOOR CLEVELAND, OH 44115				
EXAMINER				
ZHAO, DAQUAN				
ART UNIT		PAPER NUMBER		
2621				
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12/08/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,287

Applicant(s)

ITO ET AL.

Examiner

DAQUAN ZHAO

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-10, 12-15, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashley et al (US 6,584,273 B1) and further in view of Fuchigami (US 2002/0,009,291 A1).

For claim 1, Ashley et al teach a data processor comprising: a writing section for arranging a plurality of moving picture streams (e.g. figure 6, column 2, lines 45-46, MPEG video picture streams), each including video and audio to play back synchronously with each other (e.g. column 4, lines 43-57 and figure 5, the video and audio must playback synchronously with each other), and writing the streams as at least one data file on a storage medium (e.g. figure 5 shows File A, File B); and a writing control section for locating a mute interval between two moving picture streams that are going to be played back continuously, wherein the writing control section provides additional audio data representing audio to be reproduced in the mute interval

located (e.g. column 6, lines 37-52, column 11, lines 26-34 and claims 4 and 11 of Ashley et al);

Ashley et al fail to specify the writing section stores the provided additional audio data on the storage medium separately from the moving picture streams such that the additional audio data is associated with the data file.

Fuchigami teaches the writing section stores the provided additional audio data on the storage medium separately from the moving picture streams such that the additional audio data is associated with the data file (e.g. figure 1, paragraph 43, data are stored in separated files). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the separated data file format of Fuchigami into the teaching of Ashley et al to record the additional audio for the audio gap separately from the moving picture data to allow user to easily defined the order of reproduction while the contents data remain unchanged (e.g. Fuchigami, paragraph 43).

Claim 13 is rejected for the same reasons as discussed in claim 1 above.

For claims 2-3 and 14-15, Ashley et al teach the writing control section further uses audio data, which is stored in a predetermined terminal range of one of the two continuously played moving picture streams that is going to be played earlier than the other, and provides the additional audio data including the same audio as that stored in the predetermined terminal range (e.g. column 6, lines 37-52, column 11, lines 26-34 and claims 4 and 11 of Ashley et al teach using the overlapping audio to fill the audio gap, the overlap audio must be from the streams in figure 5, file A and File B are

considered to the claimed terminal range, one of the file A or File B must be playback before the other).

For claims 5, 8, 17 and 20, Ashley et al teach the writing section writes the arranged moving picture streams as a single data file on the storage medium (e.g. column 4, lines 31-57, The PBS program).

For claims 6 and 18, Ashley et al teach the writing section writes the arranged moving picture streams as multiple data files on the storage medium (e.g figure 5, file A and File B).

For claims 7 and 19, Ashley et al teach the writing section writes the provided additional audio data just before where one of the two continuously played moving picture stream data files, which is going to be played later than the other, is stored, thereby associating the additional audio data with the data file (e.g. column 4, line 58-column 5, line 4 and figure 5).

For claim 9, Ashley et al teach the mute interval is shorter than the time length of a single audio decoding unit (e.g. column 11, lines 26-33, up to about 1 audio frame can mean the audio gap can be less than 1 audio frame).

For claim 10, Ashley et al teach a video stream in each said moving picture stream is an MPEG-2 video stream, and wherein the same MPEG-2 video stream buffer conditions are to be satisfied by the two continuously played moving picture streams (e.g. column 9, lines 19-25).

For claim 12, Ashley et al teach the writing section writes the moving picture streams in a physically continuous data area on the storage medium on the basis of

either a predetermined playback duration or a predetermined data size, and also writes the additional audio data just before the continuous data area (e.g. this feature is a inherent feature of the disc recorder of figure 1, wherein the recording area of the disc has to be continuous data area, and is divided into sectors of 2Kb).

4. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashley et al (US 6,584,273 B1) and Fuchigami (US 2002/0,009,291) as applied to claims 1-3, 5-10, 12-15, and 17-20 above, and further in view of Robinson (US 5,476,097).

See the teaching of Ashley et al and Fuchigami.

For claims 4 and 16, Ashley et al fail to teach provided additional audio data just before where the mute interval. Robinson teaches provided additional audio data just before where the mute interval (e.g. column 4, lines 22-42, "The signal sample which precedes the last signal sample before the gap is used as the second gap filling sample). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Robinson into the teaching of Ashley et al and Fuchigami to improve the reliability and quality of the digital stream when the stream is reproduced.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashley et al (US 6,584,273 B1) and Fuchigami (US 2002/0,009,291 A1) as applied to claims 1-3, 5-10, 12-15, and 17-20 above, and further in view of Tahara et al (US 6,980,731 B1).

For claim 11, Ashley et al and Fuchigami fail to teach controlling an audio level before and after the mute interval. Tahara et al teach controlling an audio level before and after the mute interval (e.g. column 18, lines 47-57). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Tahara et al into the teaching of Ashley et al and Fuchigami to improve the reliability and quality of the digital stream when the stream is reproduced.

Applicant's amendment necessitated the new ground(s) of rejection presented in this office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEG § 706.07 (a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136 (a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period. Then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daquan Zhao whose telephone number is (571) 270-1119. The examiner can normally be reached on M-Fri. 7:30 -5, alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Thai Q, can be reached on (571)272-7382. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 2621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daquan Zhao/
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621